

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DARRELL CRAIG MCKISSICK,

Plaintiff,

v.

ADVANCE AUTO PARTS,

Defendant.

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Case No. 3:07-0901

Judge Echols

ORDER

This is an action brought by *pro se* Plaintiff in which he alleges Defendant wrongfully withheld portions of Plaintiff's paycheck pursuant to federal law. The action was filed in state court and removed by Defendant to this Court.

Pending before the Court is a Report and Recommendation ("R & R") (Docket Entry No. 37) in which the Magistrate Judge recommends that Defendant's unopposed Motion for Sanctions (Docket Entry No. 25) under Rule 11 of the Federal Rules of Civil Procedure be denied. No objections have been filed to the R & R, even though the parties were specifically advised that any objections needed to be filed within 10 days of service of the R & R (Docket Entry No. 37 at 3-4).

Where, as here, no objections are made to the R & R, "[t]he district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions." Fed.R.Civ.P. 72(b).

This Court has reviewed the entire file in this case and finds the Magistrate Judge properly applied the law to the facts presented. Specifically, in recommending denial of sanctions, the Magistrate Judge properly took into account Plaintiff's *pro se* status, the technical nature of the

federal rules, and the fact that most of the objected-to filings were made by Plaintiff in state court after this case was removed. Accordingly, the R & R will be accepted and approved.

In an Order dated April 23, 2008 (Docket Entry No. 34), the Court accepted and approved a R & R (Docket Entry No. 26) from the Magistrate Judge which recommended that Defendant's Motion to Dismiss (Docket Entry No. 6) be granted. In that same Order, the Court granted Defendant's Motion to Dismiss, and indicated that the case would be dismissed with prejudice after final ruling on Defendant's Motion for Sanctions.

Accordingly, the Court rules as follows:

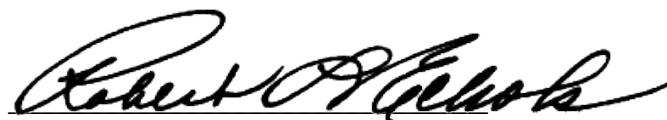
(1) The R & R (Docket Entry No. 37) which recommends denial of Defendant's Motion for Sanctions is hereby ACCEPTED and APPROVED;

(2) "Defendant's Rule 11 Motion for Sanctions" (Docket Entry No. 25) is hereby DENIED;
and

(3) This case is hereby DISMISSED WITH PREJUDICE.

Entry of this Order on the docket shall constitute entry of a final judgment in accordance with Federal Rules of Civil Procedure 58 and 79(a).

It is so ORDERED.


ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE